IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 13699 of 2007(E)

PETITIONER:

K.G.SHAJI, S/O.GOPALAN,
KOYIPPURATH HOUSE, AITHOTTUVA,
KALLADA WEST, KOLLAM DISTRICT.

BY ADV. SRI.K.ABDUL JAWAD

RESPONDENTS:

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1. **STATE OF KERALA,REP.BY SECRETARY TO GOVERNMENT MINING AND GEOLOGY DEPARTMENT, THIRUVANANTHAPURAM.**

2. **DISTRICT COLLECTOR, KOLLAM.**

3. **THE GEOLOGIST, DISTRICT MINING AND GEOLOGY OFFICE, KOLLAM.**

BY GOVERNMENT PLEADER SRI. BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.13699/2007 E

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE LICENCE DTD. 11/03/05 ISUED TO THE PETITIONER.**

EXT.P2: **COPY OF THE CONSENT TO OPERATE IN NO.PCB/KO/A/BR/73/05 DTD. 13/09/2006 TO THE PETITIONER.**

EXT.P3: **COPY OF THE PERMIT FOR MINING CLAY ISSUED TO THE PETITIONER DTD. 5/04/06 BY THE 3RD RESPONDENT.**

EXT.P4: **COPY OF THE APPLICATION BEFORE THE 3RD RESPONDENT BY THE PETITIONER, DTD. 16/04/07.**

EXT.P5: **COPY OF THE ORDER DTD. 2/03/2007 IN WP(C)NO.7085/07R PASSED BY THIS HON'BLE COURT.**

EXT.P6: **COPY OF THE ORDER DTD. 29/03/2007 IN I.A.4840/07 IN WP(C)NO.7085/07R PASSED BY THIS HON'BLE COURT.**

/TRUE COPY/

KSS

S. SIRI JAGAN, J.

WP(C) NO. 13699 OF 2007 - E

Dated this the 5th day of July, 2007

J U D G M E N T

The petitioner is the owner of two brick manufacturing units, employing about 90 workers. Clay is the raw material for the manufacturing process. He is mining clay from his own property. He wants to apply for permit. However, the third respondent is not receiving the application on the ground that there is a prohibitory order issued by this Court. The petitioner points out that the order of this Court prohibits only mining on the banks of the Kallada river and according to the petitioner, the land in question is 3 Kms. away from the banks of the Kallada river. When it was pointed out to the petitioner's counsel is that Ext.P6 order bans mining in Kunnathur Panchayath, it is pointed out by him that the petitioner's property is not in Kunnathur Panchayath, it is in West Kallada Panchayath.

2. The learned Government Pleader submits that there has been objections from the Panchayath and the local people to grant permit to the petitioner. He also

submits that the Government of India has declared this area and the Ashtamudi Kayal as wet land echo system and therefore, the petitioner's application cannot be considered.

3. Having heard both sides, I am of the opinion that issue mining permit comes only after considering the application for permit. When the petitioner files an application for permit, the third respondent has a duty to accept the same and pass orders on the same in accordance with the law obtaining as on the date of consideration. Whether, for the reasons stated by the learned Government Pleader, the third respondent can validly reject the application is a matter which the third respondent shall address himself about. Whatever that be, the third respondent is bound to consider the petitioner's application and pass orders thereon.

4. In the above circumstances, I direct the third respondent to accept the petitioner's application for permit, and pass appropriate orders thereon in accordance with law and as expeditiously as possible, at

any rate within a period of two months from the date of receipt of the application.

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007